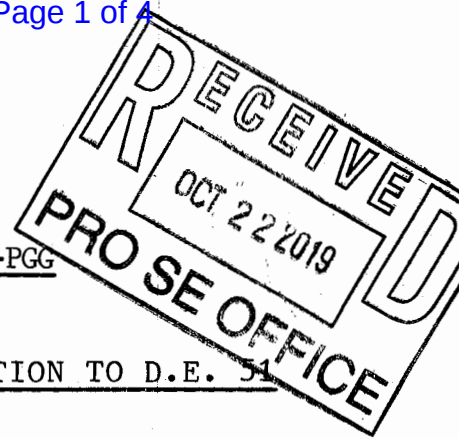


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Martin S. Gottesfeld, pro se,
Plaintiff
- against -
Hugh J. Hurwitz, et al.


Civil No.: 18-cv-10836-PGG

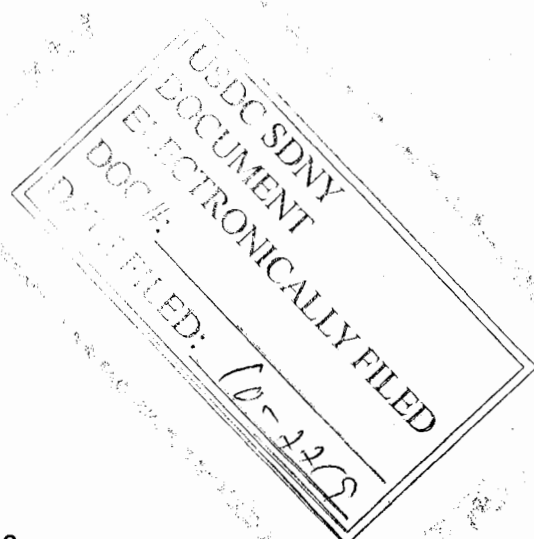


PLAINTIFF'S MOTION FOR A HEARING SHOULD HIS OPPOSITION TO D.E. 51
FAIL TO APPEAR WITHOUT REASON

Plaintiff Martin S. Gottesfeld (herein "plaintiff"), acting pro se, hereby moves The Honorable Court to schedule a hearing should his opposition to the defendants' motion to dismiss (D.E. 51) fail to appear without reason in a timely fashion. The plaintiff hopes that The Court has received his MOTION FOR EXTENSION OF TIME TO FILE, mailed on October 2nd, 2019 (and filed thereat pursuant to Houston v. Lack, 487 U.S. 266 (1988)) in an envelope bearing U.S. Postal Service (USPS) tracking number 9114 9023 0722 4072 3901 86. In support of this motion, the plaintiff herewith provides and moves The Honorable Court to take judicial notice, pursuant to Fed. R. Evid. 201(c)(2), of Exhibit 1 hereto; Declaration of Martin S. Gottesfeld; October 14th, 2019.

Respectfully mailed pursuant to Houston v. Lack on Monday, October 14th, 2019, in an envelope bearing sufficient pre-paid first-class U.S. postage affixed and USPS tracking number 9114 9023 0722 4072 3901 31, handed to Ms. Eisele of the FCI Terre Haute CMU unit team in her official capacity as an agent for the defendants,

by: 
Martin S. Gottesfeld, pro se
Reg. No.: 12982-104
Federal Correctional Institution
P.O. Box 33
Terre Haute, IN 47808



CERTIFICATE OF SERVICE

I, Martin S. Gottesfeld, hereby certify that on Monday, October 14th, 2019, I mailed a copy of the foregoing document to counsel for the defendants in the above-captioned case pursuant to Houston v. Lack, 487 U.S. 266 (1988) by handing such copy in an envelope bearing sufficient pre-paid first-class U.S. postage affixed to Ms. Eisele of the FCI Terre Haute CMU unit team for mailing in her official capacity as an agent for the defendants at my next available opportunity to do so,

by: 

Martin S. Gottesfeld, pro se

Exhibit 1

Declaration of Martin S. Gottesfeld:

I, Martin S. Gottesfeld, do hereby affirm that the following is true and accurate to the best of my knowledge, information, and belief on this 14th day of October, 2019, and I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct:

1. My name is Martin S. Gottesfeld and I am the sole plaintiff in the of 18-cv-10836-PGG-GWG pending before The Honorable U.S. District Court for The Southern District of New York (hereafter "the case").

2. I have been diligently working on my opposition to the defendants' motion to dismiss the case (D.E. 51-52) and I anticipate that my opposition will be handed to prison authorities pursuant to Houston v. Lack, 487 U.S. 266 (1988), barring any unforeseen obstacles, on or before the date I requested in my October 2nd, 2019, MOTION FOR AN EXTENSION OF TIME TO FILE, i.e. Tuesday, October 29th, 2019.

3. In any event, I would not be silent and I would advise The Court through any means available to me if I were to be unable to file my opposition as requested on or before October 29th, 2019.

4. I am yet to receive confirmation that The Court received my October 2nd, 2019, MOTION FOR AN EXTENSION OF TIME TO FILE and I am unaware of the status of my previous motion.

5. Since the mailing of my October 2nd, 2019, MOTION FOR AN EXTENSION OF TIME TO FILE, I have lost about seven (7) hours of work to lock downs, but I feel I should still be able to achieve my October 29th, 2019, filing goal, pursuant to Houston v. Lack, unless I lose more time to such lock downs, and in that event I would nonetheless notify The Court of such so long as I am able to do so.

6. I am mailing this filing pursuant to Houston v. Lack in an envelope bearing sufficient pre-paid first-class U.S. postage affixed thereto and U.S. Postal Service tracking number 9114 9023 0722 4072 3901 31, handed to Ms. Eisele of the FCI Terre Haute CMU unit team in her official capacity as an agent of the defendants in the case on Monday, October 14th, 2019, or the next possible opportunity since I can only post mail during mail call for the unit and there is no freestanding "prison mailbox" for the CMU.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on Monday, October 14th, 2019.

by: 
Martin S. Gottesfeld

Cottesfield
12982-104
Correctional Institution
IN 47808



STATES
SERVICE

3 TRACKING #

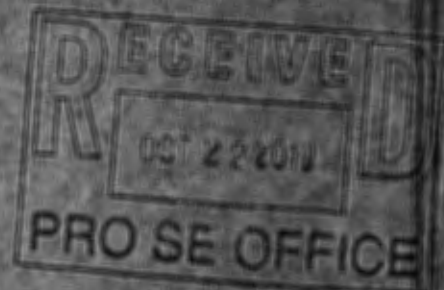


0722 4072 3901 31

Label 4072 Jan 2019
Expires 12/31/2019

12982-104
U S District Court
Pro Se Clerk
500 Pearl ST
NEW YORK, NY 10007
United States

Monday, October 14th, 2019, Houston v. Lack, 487 U.S. 266 (1988)



USM_{P3}
SDNY

MAIL FROM FEDERAL
CORRECTIONAL INSTITUTION